

## **REMARKS**

Claims 1-7, 9-23, and 31-38 were examined and reported in the Office Action. Claims 1-7, 9-23 and 31-38 are rejected. Claims 2, 8, 16, 22, 24-30, 32 and 39-49 are cancelled. Claims 1, 9, 11, 13, 15, 20 and 33 are amended. New claims 50-52 are added. Claims 1, 3-7, 9-15, 17-21, 23, 31, 33-38 and 50-52 remain.

Applicant requests reconsideration of the application in view of the following remarks.

### **I. Claim Objections**

It is asserted in the Office Action that claims 1, 2, 9, 16, 22, 32 and 36-38 are objected to under 37 C.F.R. §1.75(a). Applicant has cancelled claims 2, 16, 22 and 32. Applicant has amended claims 1 and 9 to overcome the 37 C.F.R. §1.75(c) objections.

Accordingly, withdrawal of the 37 C.F.R. §1.75(a) objections for claims 1, 2, 9, 16, 22, 32 and 36-38 are respectfully requested.

### **II. 35 U.S.C. §112, Second Paragraph**

It is asserted in the Office Action that claims 1-7, 9-23 and 31-38 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Applicant has cancelled claims 2, 16, 22 and 32. Applicant respectfully disagrees.

Regarding the assertion in the Office Action that the specification does not disclose the members are capable of movement with respect to one another to cause the fiber to be in a state of tension, Applicant asserts that the specification discloses that beam 150 is inserted between the two support elements (100,110) and works in compression to maintain structure 10 in tension, which is placed between the two support elements. (See Applicant's specification, page 14, lines 20-36). Further, it is asserted in the specification that one end of structure 10 is fixed to support element 110, for example being sandwiched between part 70 and support element 110, and the other

end of structure 10 is fixed by any appropriate means to the second support member 100. (See Applicant's specification, page 17, lines 34-38).

Regarding the assertion in the Office Action that it is not clear what "threshold of curvature" is, Applicant has amended claim 1 to include the limitations of "the relative displacement of said stressing members (20, 30) so as to bend and to rupture said structure in tension when said pretensioned fibers are bent with a radius of curvature which is smaller than said predetermined threshold." That is, when the radius of curvature of the fibers is above a threshold, the fibers are not altered. When the radius of curvature of the fibers is smaller than the threshold, the fibers break.

Accordingly, withdrawal of the 35 U.S.C. §112, second paragraph, rejections for claims 1-7, 9-23 and 31-38 are respectfully requested.

### III. 35 U.S.C. §102(b)

It is asserted in the Office Action that claims 1, 7 and 32-33 are rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,361,676 issued to Gibbs ("Gibbs"). Applicant respectfully disagrees.

According to MPEP §2131, "[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.' (Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)). 'The identical invention must be shown in as complete detail as is contained in the ... claim.' (Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989)). The elements must be arranged as required by the claim, but this is not an ipsissimis verbis test, i.e., identity of terminology is not required. (In re Bond, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990))."

Applicant's amended claim 1 contains the limitations of "[a] device comprising a first support element (100), a second support element (110) which is separate from said first support element (100), a structure (10) comprising pretensioned fibers able of rupture when bent with a radius of curvature which is smaller than a predetermined threshold, said pretensioned fibers being placed in tension between said two support

elements (100, 110), a beam (150) inserted between said two support elements (100, 110) in parallel with the structure so as to work in compression between said two support elements (100, 110), and a rupture device (20, 30, 40, 50) comprising two stressing members (20, 30) and operating means (40), said two stressing members (20, 30) being arranged one on each side of the fibers (10), said stressing members being able to relative displacement toward each other, one or said stressing members having an edge directed towards the fibers, said edge having a radius of curvature which is smaller than the minimum radius that the fibers can tolerate before they rupture in bending, and said operating means (40) being designed to bring about the relative displacement of said stressing members (20, 30) so as to bend and to rupture said structure in tension when said pretensioned fibers are bent with a radius of curvature which is smaller than said predetermined threshold."

Thus, Applicant's claimed invention has a second support element that is separate from the first support element. The structure to be ruptured is placed in tension between the two support elements. The rupture device is adapted to rupture the structure on demand. The beam is inserted between the two support elements in parallel with the structure to be ruptured. In other words, the beam is in contact with the two support elements. The beam works in compression, as a bridge, between the two support elements.

Gibbs relates to a device for cutting glass fibers. Applicant indicates in the specification (page 1 line 31 to page 2 line 14) that "numerous cutting devices comprising a cutter and an element such as a pyrotechnic generator designed to move the cutter against the structure to be ruptured in order to rupture the latter through the penetration of the cutter into the material of the structure and thus reduction in the thickness thereof have also been proposed... However, hitherto, the devices of this type have still not been satisfactory either. They also lead to not insignificant shocks and to risks of pollution following the escape of the gases originating from the pyrotechnic generator." (Documents FR 2 319 823, FR 2 456 585, FR 2 704 466 and DE 29 809 585 correspond to such prior art.). Gibbs conforms to the prior art cited by Applicant. That is, Gibbs discloses an "explosive-separable fastener with umbilical cord cutter."

More precisely, Gibbs discloses a device comprising: a hollow retaining bolt 90, an umbilical line 96 passing through the hollow center of the bolt 90, an upper electrical connector plate 44 and a lower electrical connector plate 50, an horizontal upper compression plate 42 and a lower compression plate 30, placed respectively on each side of the connector plates 44 and 50, and a bolt cutter 60 comprising: a projectile 64 having a sharp edge 76, and an electrically activated explosive charge provided in the cavity 72 of a threaded squib 70 to displace said projectile against said bolt 90, so that the frontal sharp edge 76 of the projectile cut through the bolt 90."

The cutter disclosed in Gibbs leads to the same drawbacks that Applicant's cited prior art has. According to Gibbs, projectile 64 strikes bolt 90, which leads to shocks. Moreover, the explosive charge leads to a risk of pollution following the escape of the gasses originating from the charge.

Applicant includes the attached drawing for reference summarizing the composition and operation of Applicant's claimed invention on the left side of the device and to that of Gibbs on the right side. First, Gibbs does not teach, disclose or suggest pretensioned fibers placed in tension between two support elements. Second, Gibbs does not teach, disclose or suggest pretensioned fibers able of rupture when bent with a radius of curvature which is smaller than a predetermined threshold. According to Gibbs, the rupture of bolt 90 is not due to bending but is due to a cutting by the frontal sharp edge 76 of projectile 64 (see Gibbs column 5, lines 17 - 21). Third, Gibbs does not teach, disclose or suggest a beam inserted in compression between two support elements. Indeed, according to Gibbs the compression plate 30 is not provided between two support elements, nor between the two electrical connector plates 44 and 50. According to Gibbs the lower compression plate 30 and the upper compression plate 42 are provided outside electrical connector plates 44 and 50.

Gibbs simply does not disclose, teach or suggest pretensioned fibers placed in tension between two support elements, pretensioned fibers able of rupture when bent with a radius of curvature which is smaller than a predetermined threshold, nor a beam inserted in compression between two support elements.

Therefore, since Gibbs does not disclose, teach or suggest all of Applicant's amended claim 1 limitations, Applicant respectfully asserts that a *prima facie* rejection under 35 U.S.C. §102(b) has not been adequately set forth relative to Gibbs. Thus, Applicant's amended claim 1 is not anticipated by Gibbs. Additionally, the claims that depend directly or indirectly on claim 1, namely claims 7 and 33 (claim 32 being cancelled), are also not anticipated by Gibbs for the above same reason.

Accordingly, withdrawal of the 35 U.S.C. §102(b) rejections for claims 1, 7 and 32-33 are respectfully requested.

### **CONCLUSION**

In view of the foregoing, it is submitted that claims 1, 3-7, 9-15, 17-21, 23, 31, 33-38 and 50-52 patentably define the subject invention over the cited references of record, and are in condition for allowance and such action is earnestly solicited at the earliest possible date. If the Examiner believes a telephone conference would be useful in moving the case forward, he is encouraged to contact the undersigned at (310) 207-3800.

If necessary, the Commissioner is hereby authorized in this, concurrent and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2666 for any additional fees required under 37 C.F.R. §§1.16 or 1.17, particularly, extension of time fees.


**PETITION FOR EXTENSION OF TIME**

Per 37 C.F.R. 1.136(a) and in connection with the Office Action mailed on OCTOBER 9, 2003, Applicant respectfully petitions the Commissioner for a three (3) month extension of time, extending the period for response to FRIDAY, APRIL 9, 2004. The Commissioner is hereby authorized to charge payment to Deposit Account No. 02-2666 in the amount of \$950.00 to cover the petition filing fee for a 37 C.F.R. 1.17(a)(3) large entity. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR, & ZAFMAN LLP

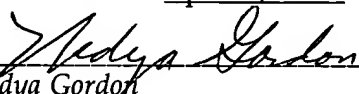
Dated: April 9, 2004

By:   
Steve Laut, Reg. No. 47,736

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**CERTIFICATE OF MAILING**

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage in an envelope addressed to: Mail Stop AF, Commissioner for Patents, Post Office Box 1450, Alexandria, Virginia 22313-1450 on April 9, 2004.

  
Nadya Gordon 4/9/04  
April 9, 2004

Attachment